

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## ROBERT DUKOWITZ

Plaintiff,

V.

LUND, et al.,

## Defendants.

CASE NO. 3:18-CV-05904-RBL-  
JRC

## ORDER

The District Court has referred this action, filed pursuant to 42 U.S.C. § 1983, to United States Magistrate Judge J. Richard Creatura. In the complaint, plaintiff alleges that he was convicted of attempted murder, but the Department of Corrections (“DOC”) erroneously “labeled [him as] a murderer, since 1996.” Dkt. 12 at 3. As a result, plaintiff contends that there was an error in calculating his sentence because his conviction for attempted murder requires a 25% reduction in prison time from a murder conviction. *Id.*

On May 3, 2019, defendants filed a motion to dismiss. Dkt. 17. Plaintiff did not file a response. On June 12, 2019, the Court ordered supplemental briefing as to whether some or all of the claims in the complaint were barred under *Heck v. Humphrey*, 512 U.S. 477 (1994). Dkt. 19.

1 The Court's June 12, 2019 order was returned to the Court as undeliverable. Dkt. 20. The Clerk's  
2 office was informed from the Washington Corrections Center staff that plaintiff had been  
3 released to community custody. *Id.* The order was resent to plaintiff at a DOC field office in care  
4 of plaintiff's community custody officer. *Id.* On June 24, 2019, defendants filed their  
5 supplemental brief. Dkt. 21.

6 Plaintiff did not file a response defendants' motion to dismiss. He did not file a brief in  
7 response to defendants' supplemental brief. He has not filed a notice of change of address. *See*  
8 L.C.R. 41(b)(2) (a party proceeding *pro se* shall keep the Court and opposing parties advised as  
9 to his current mailing address). In sum, plaintiff has not taken any action in this case since April  
10 18, 2019. *See* Dkt.

11 As plaintiff has failed to respond to the motion to dismiss, failed to file a notice of change  
12 of address, or take any other action in this case, the Court directs plaintiff to: (1) provide a status  
13 update informing the Court whether he wishes to proceed with this action; (2) file a response to  
14 the motion to dismiss; and (3) notify the Court of his current mailing address.

15 If plaintiff fails to respond to this order on or before September 6, 2019, the Court will  
16 recommend dismissal of this action. If plaintiff files a response to the motion to dismiss,  
17 defendants may file a supplemental reply on or before September 13, 2019.

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1 The Court directs the Clerk to re-note the motion to dismiss (Dkt. 17) for the Court's  
2 consideration on September 13, 2019. The Court also directs the Clerk to send a copy of the  
3 motion to dismiss (Dkt. 17), the Court's June 12, 2019 order (Dkt. 19), and defendants'  
4 supplemental brief (Dkt. 21) to plaintiff with this Order.

5 Dated this 7th day of August, 2019.

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8 J. Richard Creatura  
9 United States Magistrate Judge

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